

CHAIRMAN’S MARK
APRIL 24, 2003

TITLE XI — ELECTRICITY

SEC. 1101. DEFINITIONS.

(a) ELECTRIC UTILITY—Section 3(22) of the Federal Power Act (16 U.S.C. 796(22)) is amended to read as follows:

“(22) ‘electric utility’ means any person or Federal or State agency (including any municipality) that sells electric energy; such term includes the Tennessee Valley Authority and each Federal power marketing agency;”.

(b) TRANSMITTING UTILITY—Section 3(23) of the Federal Power Act (16 U.S.C. 796(23)) is amended to read as follows:

“(23) ‘transmitting utility’ means an entity, including any entity described in section 201(f) (but not a distribution utility, as hereinafter defined), that owns or operates facilities used for the transmission of electric energy—

“(A) in interstate commerce; or

“(B) for the sale of electric energy at wholesale;”.

(c) ADDITIONAL DEFINITIONS—At the end of section (3) of the Federal Power Act, add the following:

“(26) ‘Regional Transmission Organization’ or ‘RTO’ means an entity that the Commission finds to be of sufficient regional scope and that meets the requirements of section 216 of the Act;

“(27) ‘Independent Transmission Organization’ or ‘ITO’ means an entity an entity that the Commission finds not to be of sufficient regional scope but that otherwise meets the requirements of section 216 of the Act;

“(28) ‘unregulated transmitting utility’ means an entity that—

“(A) owns or operates facilities used for the transmission of electric energy in interstate commerce, and

“(B) is an entity described in section 201(f), including a rural electric cooperative with

financing from the Rural Utilities Service; and

“(29) ‘distribution utility’ means an electric utility that does not own or operate transmission facilities or an unregulated transmitting utility that provides 90 percent of the electric energy its transmits to customers at retail.”

(d) For the purposes of this title, the term “ the Commission” means the Federal Energy Regulatory Commission.

Subtitle A—Reliability

SEC. 1111. ELECTRIC RELIABILITY STANDARDS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding the following:

“ELECTRIC RELIABILITY.

“SEC. 215. (a) For the purposes of this section:

“(1) The term ‘bulk-power system’ means—

“(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

“(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

“(2) The terms ‘Electric Reliability Organization’ and ‘ERO’ mean the organization certified by the Commission under subsection (c), the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

“(3) The term ‘reliability standard’ means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

“(4) The term ‘reliable operation’ means operating the elements of the bulk-power

1 system within equipment and electric system thermal, voltage, and stability limits so that
2 instability, uncontrolled separation, or cascading failures of such system will not occur as a
3 result of a sudden disturbance or unanticipated failure of system elements.

4 “(5) The term ‘Interconnection’ means a geographic area in which the operation of
5 bulk-power system components is synchronized such that the failure of one or more of such
6 components may adversely affect the ability of the operators of other components within the
7 system to maintain reliable operation of the facilities within their control.

8 “(6) The term ‘transmission organization’ means an RTO , ITO or other transmission
9 organization finally approved by the Commission for the operation of transmission facilities.

10 “(7) The term ‘regional entity’ means an entity having enforcement authority pursuant to
11 subsection (e)(4).

12 “(b) The Commission shall have jurisdiction, within the United States, over the ERO certified by
13 the Commission under subsection (c), any regional entities, and all users, owners and operators of the
14 bulk-power system, including the entities described in section 201(f), for purposes of approving
15 reliability standards established under this section and enforcing compliance with this section. All users,
16 owners and operators of the bulk-power system shall comply with reliability standards that take effect
17 under this section. The Commission shall issue a final rule to implement the requirements of this section
18 not later than 180 days after the date of enactment of this section.

19 “(c) Following the issuance of a Commission rule under subsection (b), any person may submit
20 an application to the Commission for certification as the Electric Reliability Organization. The
21 Commission may certify one such ERO if the Commission determines that such ERO—

22 “(1) has the ability to develop and enforce, subject to subsection (d)(2), reliability
23 standards that provide for an adequate level of reliability of the bulk-power system; and

24 “(2) has established rules that—

25 “(A) assure its independence of the users and owners and operators of the
26 bulk-power system, while assuring fair stakeholder representation in the selection of its
27 directors and balanced decisionmaking in any ERO committee or subordinate

1 organizational structure;

2 “(B) allocate equitably reasonable dues, fees, and other charges among end
3 users for all activities under this section;

4 “(C) provide fair and impartial procedures for enforcement of reliability
5 standards through the imposition of penalties in accordance with subsection (e)
6 (including limitations on activities, functions, or operations, or other appropriate
7 sanctions);

8 “(D) provide for reasonable notice and opportunity for public comment, due
9 process, openness, and balance of interests in developing reliability standards and
10 otherwise exercising its duties; and

11 “(E) provide for taking, after certification, appropriate steps to gain recognition
12 in Canada and Mexico.

13 “(d)(1) The ERO shall file each reliability standard or modification to a reliability standard that it
14 proposes to be made effective under this section with the Commission.

15 “(2) The Commission may approve by rule or order a proposed reliability standard or
16 modification to a reliability standard if it determines that the standard is just, reasonable, not unduly
17 discriminatory or preferential, and in the public interest. The Commission shall give due weight to the
18 technical expertise of the ERO with respect to the content of a proposed standard or modification to a
19 reliability standard and to the technical expertise of a regional entity organized on an Interconnection-
20 wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall
21 not defer with respect to the effect of a standard on competition. A proposed standard or modification
22 shall take effect upon approval by the Commission.

23 “(3) The ERO shall rebuttably presume that a proposal from a regional entity organized on an
24 Interconnection-wide basis for a reliability standard or modification to a reliability standard to be
25 applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or
26 preferential, and in the public interest.

27 “(4) The Commission shall remand to the ERO for further consideration a proposed reliability

1 standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

2 “(5) The Commission, upon its own motion or upon complaint, may order the ERO to submit
3 to the Commission a proposed reliability standard or a modification to a reliability standard that
4 addresses a specific matter if the Commission considers such a new or modified reliability standard
5 appropriate to carry out this section.

6 “(6) The final rule adopted under subsection (b) shall include fair processes for the identification
7 and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff,
8 rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a
9 transmission organization. Such transmission organization shall continue to comply with such function,
10 rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission
11 until—

12 “(A) the Commission finds a conflict exists between a reliability standard and any such
13 provision;

14 “(B) the Commission orders a change to such provision pursuant to section 206 of this
15 part; and

16 “(C) the ordered change becomes effective under this part.

17 If the Commission determines that a reliability standard needs to be changed as a result of such a
18 conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard
19 under paragraph (4) or (5) of this subsection.

20 “(e)(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or
21 operator of the bulk-power system for a violation of a reliability standard approved by the Commission
22 under subsection (d) if the ERO, after notice and an opportunity for a hearing—

23 “(A) finds that the user or owner or operator has violated a reliability standard
24 approved by the Commission under subsection (d); and

25 “(B) files notice and the record of the proceeding with the Commission.

26 “(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after
27 the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty

shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

“(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system, if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

“(4) The Commission shall establish regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

“(A) the regional entity is governed by an independent board, a balanced stakeholder board, or a combination independent and balanced stakeholder board;

“(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2);
and

“(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes

1 effective and efficient administration of bulk-power system reliability and should be approved. Such
2 regulation may provide that the Commission may assign the ERO's authority to enforce reliability
3 standards under paragraph (1) directly to a regional entity consistent with the requirements of this
4 paragraph.

5 “(5) The Commission may take such action as is necessary or appropriate against the ERO or a
6 regional entity to ensure compliance with a reliability standard or any Commission order affecting the
7 ERO or a regional entity.

8 “(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness
9 of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy
10 the violation in a timely manner.

11 “(f) The ERO shall file with the Commission for approval any proposed rule or proposed rule
12 change, accompanied by an explanation of its basis and purpose. The Commission, upon its own
13 motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule
14 change shall take effect upon a finding by the Commission, after notice and opportunity for comment,
15 that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and
16 satisfies the requirements of subsection (c).

17 “(g) The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-
18 power system in North America.

19 “(h) The President is urged to negotiate international agreements with the governments of
20 Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness
21 of the ERO in the United States and Canada or Mexico.

22 “(i)(1) The ERO shall have authority to develop and enforce compliance with reliability
23 standards for only the bulk-power system.

24 “(2) This section does not authorize the ERO or the Commission to order the construction of
25 additional generation or transmission capacity or to set and enforce compliance with standards for
26 adequacy or safety of electric facilities or services.

27 “(3) Nothing in this section shall be construed to preempt any authority of any State to take

1 action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such
2 action is not inconsistent with any reliability standard.

3 “(4) Within 90 days of the application of the ERO or other affected party, and after notice and
4 opportunity for comment, the Commission shall issue a final order determining whether a State action is
5 inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

6 “(5) The Commission, after consultation with the ERO, may stay the effectiveness of any State
7 action, pending the Commission’s issuance of a final order.

8 “(j) The Commission shall establish a regional advisory body on the petition of at least two-
9 thirds of the States within a region that have more than one-half of their electric load served within the
10 region. A regional advisory body shall be composed of one member from each participating State in
11 the region, appointed by the Governor of each State, and may include representatives of agencies,
12 States, and provinces outside the United States. A regional advisory body may provide advice to the
13 ERO, a regional entity, or the Commission regarding the governance of an existing or proposed regional
14 entity within the same region, whether a standard proposed to apply within the region is just,
15 reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed
16 to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in
17 the public interest and any other responsibilities requested by the Commission. The Commission may
18 give deference to the advice of any such regional advisory body if that body is organized on an
19 Interconnection-wide basis.

20 “(k) The provisions of this section do not apply to Alaska or Hawaii.”.

21 **Subtitle B—Flexible Market Design**

22 **SEC. 1121. IMPLEMENTATION DATE FOR PROPOSED RULEMAKING ON STANDARD MARKET DESIGN.**

23 The Commission may not issue any final order in Docket No. RM01-12-000 prior to 120 days
24 after the date of enactment of this Act.

25 **SEC. 1122. SENSE OF THE CONGRESS ON REGIONAL TRANSMISSION ORGANIZATIONS.**

26 It is the sense of Congress that, in order to promote fair, open access to electric transmission
27 service, benefit retail consumers, facilitate wholesale competition, improve efficiencies in transmission

1 grid management, promote grid reliability, remove opportunities for unduly discriminatory or preferential
2 transmission practices, and provide for the efficient development of transmission infrastructure needed
3 to meet the growing demands of competitive wholesale power markets, all transmitting utilities in
4 interstate commerce should voluntarily become members of independently administered Regional
5 Transmission Organizations (“RTO”) that have operational or functional control of facilities used for the
6 transmission of electric energy in interstate commerce and do not own or control generation facilities
7 used to supply electric energy for sale at wholesale.

8 **SEC. 1123 FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.**

9 (a) DEFINITIONS.—For purposes of this section:

10 (1) The term “appropriate Federal regulatory authority” means—

11 (A) with respect to a Federal power marketing agency, the Secretary of
12 Energy, except that the Secretary may designate the Administrator of a Federal power
13 marketing agency to act as the appropriate Federal regulatory authority with respect to
14 the transmission system of that Federal power marketing agency; and

15 (B) with respect to the Tennessee Valley Authority, the Board of Directors of
16 the Tennessee Valley Authority.

17 (2) The term “Federal utility” means a Federal power marketing agency or the
18 Tennessee Valley Authority.

19 (3) The term “transmission system” means electric transmission facilities owned, leased,
20 or contracted for by the United States and operated by a Federal utility.

21 (b) TRANSFER.—

22 (1) The appropriate Federal regulatory authority is authorized to enter into a contract,
23 agreement or other arrangement transferring control and use of all or part of the Federal utility’s
24 transmission system to an RTO or ITO, as defined in sections 3(26) and 3(27) of the Federal
25 Power Act, as added in this title. Such contract, agreement or arrangement shall include—

26 (A) performance standards for operation and use of the transmission system
27 that the head of the Federal utility determines necessary or appropriate, including
28 standards that assure recovery of all the Federal utility’s costs and expenses related to

1 the transmission facilities that are the subject of the contract, agreement or other
2 arrangement, consistency with existing contracts and third-party financing arrangements,
3 and consistency with said Federal utility's statutory authorities, obligations, and
4 limitations;

5 (B) provisions for monitoring and oversight by the Federal utility of the RTO or
6 ITO's fulfillment of the terms and conditions of the contract, agreement or other
7 arrangement, including a provision that may provide for the resolution of disputes
8 through arbitration or other means with the RTO or ITO or with other participants,
9 notwithstanding the obligations and limitations of any other law regarding arbitration;
10 and

11 (C) a provision that allows the Federal utility to withdraw from the RTO or ITO
12 and terminate the contract, agreement or other arrangement in accordance with its
13 terms.

14 (2) Neither this section, actions taken pursuant to it, nor any other transaction of a
15 Federal utility using an RTO or ITO shall serve to confer upon the Commission jurisdiction or
16 authority over the Federal utility's electric generation assets, electric capacity or energy that the
17 Federal utility is authorized by law to market, or the Federal utility's power sales activities.

18 (c) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

19 (1) Any statutory provision requiring or authorizing a Federal utility to transmit electric
20 power, or to construct, operate or maintain its transmission system shall not be construed to
21 prohibit a transfer of control and use of its transmission system pursuant to, and subject to all
22 requirements of paragraph (2).

23 (2) This subsection shall not be construed to—

24 (A) suspend, or exempt any Federal utility from any provision of existing
25 Federal law, including but not limited to any requirement or direction relating to the use
26 of the Federal utility's transmission system, environmental protection, fish and wildlife
27 protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

SEC. 1124. REGIONAL TRANSMISSION ORGANIZATION REQUIREMENTS.

Part II of the Federal Power Act is amended by adding the following:

“TRANSMISSION ORGANIZATION CRITERIA

“SEC. 216. (a) Each RTO and ITO shall meet, at a minimum, the following criteria:

“(1) RTOs and ITOs—

“(A) shall be independent of all market participants; and

“(B) may own transmission facilities, operate transmission facilities owned by other entities, or oversee the operation of transmission facilities owned by other entities.

“(2) RTOs and ITOs not within an RTO region shall—

“(A) be the provider of transmission service and the sole administrator of a non-discriminatory wholesale open access tariff for the facilities under its ownership, control or oversight;

“(B) develop market mechanisms for identifying and managing congestion, but such mechanisms need not be based upon locational marginal pricing;

“(C) operate a single open access, same time information system for all transmission facilities under its ownership, control or oversight and shall calculate total transmission capacity and available transmission capacity, or the equivalent transmission rights if its congestion management system is based upon financial rather than physical rights;

“(D) serve as a provider of last resort for ancillary services;

“(E) provide for monitoring of wholesale electric energy markets and ancillary services within its region, working with the Commission, States, and other appropriate entities;

“(F) coordinate its activities with transmitting utilities overseeing or controlling adjacent interstate transmission facilities;

“(G) provide a plan on how to allocate costs associated with new transmission facilities as well as modification, expansion or upgrade of existing transmission facilities

1 (“transmission expansion”) that will ensure that costs of any transmission expansion are
2 allocated fairly and that those who pay for transmission expansion receive appropriate
3 compensation, which may be compensation in the form of some proportionate
4 transmission service credit that reflects the amount invested in the transmission
5 expansion or equivalent financial rights; and

6 “(H) provide a plan to ensure that any load-serving entity operating within its
7 region may perform its service obligation pursuant to the protections described in
8 section 220.

9 “(3) An RTO shall ensure that a real-time electricity market is available and may
10 provide for such other electricity market as it deems appropriate.

11 “(b) Nothing in this section shall affect any approval the Commission has granted to an RTO or
12 ITO prior to enactment of this section.

13 “LIMITATIONS ON COMMISSION AUTHORITY

14 “SEC. 217. (a) In any rule or order, including the final rule on the Standard Market Design in
15 Docket No. RM01-12-000, or any action on an individual application to form or modify an RTO or
16 ITO after the date of enactment of this section the Commission shall apply the requirements of this
17 section and section 216.

18 “(b) If an electric utility or transmitting utility (including an entity described in section 201(f) or a
19 rural cooperative) files a proposal to establish, participate in, or modify an RTO or ITO with the
20 Commission, and if such application meets the requirements of section 216 and other applicable
21 requirements of section 205, the Commission shall promptly approve the application.

22 “(c) In exercising its authority, the Commission shall permit RTO or ITO applicants to retain the
23 maximum practicable flexibility in structuring and implementing RTOs and ITOs. In carrying out this
24 requirement, the Commission shall—

25 “(1) permit various organizational forms;

26 “(2) permit RTOs and ITOs to phase-in the implementation of the applicable
27 requirements so as to best meet the needs of a region, and in particular shall take into account
28 the special circumstances that may be found in the Western Interconnection related to the

1 existence of transmission congestion, the existence of significant hydroelectric capacity, the
2 participation of unregulated transmitting utilities, and the distances between generation and load;
3 and

4 “(3) make a finding with respect to each RTO and ITO order that the Commission
5 has—

6 “(A) taken into account legal, financial, and operational constraints faced by
7 particular types of applicants and participants, including public utilities, municipal
8 utilities, and rural cooperative utilities;

9 “(B) addressed the concerns of State regulatory authorities and other
10 appropriate State authorities in States in which the RTO and ITO operates; and

11 “(C) provided for economically efficient investment in transmission infrastructure
12 to support the development of regional wholesale markets for electric power.

13 “(d) The Commission shall not require that a public utility divest generation or transmission
14 facilities either directly, or as a condition of its approval of any application to—

15 (1) form or participate in an RTO; or

16 (2) provide independent control or oversight of transmission facilities.

17 “(e) The Commission shall not interfere with a transmitting utility’s right to develop, construct
18 and own system expansions to ensure adequate and reliable service.

19 “DEFERENCE REQUIREMENT

20 “SEC. 218. (a) In exercising its jurisdiction under this Part to act on matters concerning an RTO
21 or an ITO, the Commission shall give substantial deference to comments submitted by State regulatory
22 authorities and other appropriate State officials in the states in which the RTO or ITO would control or
23 oversee facilities on issues concerning—

24 “(1) the plan of an RTO or ITO regarding the allocation of the costs of new
25 transmission and interconnection facilities;

26 “(2) the plan of an RTO or ITO regarding equitable allocation of the fixed costs of the
27 existing system, including the imposition of rates for transmission service through and out of an

1 RTO or ITO;

2 “(3) the plan of an RTO or ITO regarding the ability of load-serving entities to meet
3 service obligations; and

4 “(4) the costs and benefits of the RTO or ITO.

5 “(b) The Commission shall provide any transmitting utility that participates in an RTO or an ITO
6 an opportunity to recover all legitimate, verifiable, prudently incurred costs related to forming, joining,
7 and participating in the RTO or ITO.

8 “(c) The Commission shall provide any transmitting utility an opportunity to recover any
9 revenues lost due to its participation in the RTO or ITO for a reasonable transition period, provided
10 that the Commission determines that the transmitting utility will otherwise be unable to meet its
11 authorized rate of return or that the resulting transmission rate will be unjust and unreasonable under
12 sections 205 and 206 of this Act.

13 “EXCEPTION.

14 “SEC. 219. Nothing in sections 216, 217 and 218 shall apply to any entity referred to in section
15 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824(k)(2)(B)).”.

16 **SEC. 1125. REGIONAL CONSIDERATION OF COMPETITIVE WHOLESALE MARKETS.**

17 (a) STATE REGULATORY COMMISSIONS.—Not later than 90 days after the date of enactment
18 of this Act, the Commission shall convene regional discussions with State regulatory commissions, as
19 defined in section 3(21) of the Federal Power Act. The regional discussions should address whether
20 wholesale electric markets in each region are working effectively to provide reliable service to electric
21 consumers in the region at the lowest reasonable cost. Priority should be given to discussions in regions
22 that do not have, as of the date of enactment of this Act, a Regional Transmission Organization or an
23 Independent Transmission Organization, respectively defined in section 3(26) and section 3(27) of the
24 Federal Power Act, as added in section 1101 of this title. The regional discussions shall consider—

25 (1) the need for an RTO or other organizations in the region to provide non-
26 discriminatory transmission access and generation interconnection;

27 (2) a process for regional planning of transmission facilities with State regulatory
28 authority participation and for consideration of multi-state projects;

1 (3) a means for ensuring that costs for all electric consumers, as defined in section 3(5)
2 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(5)), and buyers of
3 wholesale energy or capacity are reasonable and economically efficient;

4 (4) a means for ensuring that all electric consumers, as defined in section 3(5) of the
5 Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(5)), within the region maintain
6 their ability to use the existing transmission system without incurring unreasonable additional
7 costs in order to expand the transmission system for new customers;

8 (5) whether the integrated transmission and electric power supply system can and
9 should be operated in a manner that schedules and economically prioritizes all available electric
10 generation resources, so as to minimize the costs of electric energy to all consumers (“economic
11 dispatch”) and maintaining system reliability;

12 (6) a means to provide transparent price signals to ensure efficient expansion of the
13 electric system and efficiently manage transmission congestion;

14 (7) eliminating in a reasonable manner, consistent with applicable State and Federal
15 law, multiple, cumulative charges for transmission service across successive locations within a
16 region (“pancaked rates”);

17 (8) resolution of seams issues with neighboring regions and inter-regional coordination;

18 (9) a means of providing information electronically to potential users of the transmission
19 system;

20 (10) implementation of a market monitor for the region with State regulatory authority
21 and Commission oversight and establishment of rules and procedures that ensure that State
22 regulatory authorities are provided access to market information and that provides for
23 expedited consideration by the Commission of any complaints concerning exercise of market
24 power and the operation of wholesale markets; and,

25 (11) a timetable to meet the objectives of this section.

26 (b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission
27 shall report to Congress on the progress made in addressing the issues in subsection (a) of this section

1 in discussions with the States.

2 (c) SAVINGS.—Nothing in this section shall affect any discussions between the Commission and
3 State or other retail regulatory authorities that are on-going prior to enactment of this Act.

4 **Subtitle C—Improving Transmission Access and Protecting** 5 **Service Obligations**

6 **SEC. 1131. SERVICE OBLIGATION SECURITY AND PARITY.**

7 The Federal Power Act (16 U.S.C. 824e) is amended by adding the following:

8 “SEC. 220. (a)(1) The Commission shall exercise its authority under this Act to ensure that any
9 load-serving entity that, as of the date of enactment of this section—

10 “(A) owns generation facilities, markets the output of federal generation facilities, or
11 holds rights under one or more long-term contracts to purchase electric energy, for the purpose
12 of meeting a service obligation, and

13 “(B) by reason of ownership of transmission facilities, or one or more contracts or
14 service agreements for firm transmission service, holds firm transmission rights for delivery of
15 the output of such generation facilities or such purchased energy to meet such service
16 obligation,

17 is entitled to use such firm transmission rights, or equivalent financial transmission rights, in order to
18 deliver such output or purchased energy, or the output of other generating facilities or purchased energy
19 to the extent deliverable using such rights, to meet its service obligation.

20 “(2) To the extent that all or a portion of the service obligation covered by such firm
21 transmission rights is transferred to another load-serving entity, the successor load-serving entity shall
22 be entitled to use the firm transmission rights associated with the transferred service obligation.
23 Subsequent transfers to another load-serving entity, or back to the original load-serving entity, shall be
24 entitled to the same rights.

25 “(3) The Commission shall exercise its authority under this Act in a manner that facilitates the
26 planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to
27 satisfy their service obligations.

“(b) Nothing in this section shall affect any methodology for the allocation of transmission rights by a Commission-approved RTO or ITO that, prior to the date of enactment of this section, has been authorized by the Commission to allocate transmission rights.

“(c) Nothing in this Act shall relieve a load-serving entity from any obligation under State or local law to build transmission or distribution facilities adequate to meet its service obligations.”

“(d) Nothing in this section shall provide a basis for abrogating any contract for firm transmission service or rights in effect as of the date of the enactment of this subsection.

“(e) For purposes of this section:

“(1) The term ‘load-serving entity’ means a distribution utility or an electric utility (including an entity described in section 201(f) or a rural cooperative) that has a service obligation to a distribution utility.

“(2) The term ‘service obligation’ means a requirement applicable to, or the exercise of authority granted to, an electric utility (including an entity described in section 201(f) or a rural cooperative) under Federal, State or local law or under long-term contracts to provide electric service to end-users or to a distribution utility.”

SEC. 1132. OPEN NON-DISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following:

“OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES

“SEC. 211A. (a) Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

“(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

“(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

“(b) The Commission shall exempt from any rule or order under this subsection any unregulated transmitting utility that—

1 “(1) is a distribution utility that a sells no more than 4,000,000 megawatt hours of
2 electricity per year;

3 “(2) does not own or operate any transmission facilities that are necessary for operating
4 an interconnected transmission system (or any portion thereof); or

5 “(3) meets other criteria the Commission determines to be in the public interest.

6 “(c) Whenever the Commission, after a hearing held upon its own motion or upon a complaint,
7 finds any exemption granted pursuant to subsection (b) adversely affects the reliable and efficient
8 operation of an interconnected transmission system, it may revoke the exemption.

9 “(d) The rate changing procedures applicable to public utilities under subsections (c) and (d) of
10 section 205 are applicable to unregulated transmitting utilities for purposes of this section.

11 “(e) In exercising its authority under paragraph (1) of subsection (a), the Commission may
12 remand transmission rates to an unregulated transmitting utility for review and revision where necessary
13 to meet the requirements of subsection (a).

14 “(f) The provision of transmission services under subsection (a) does not preclude a request for
15 transmission services under section 211.

16 “(g) The Commission may not require a State or municipality to take action under this section
17 that constitutes a private business use for purposes of section 141 of the Internal Revenue Code of
18 1986 (26 U.S.C. 141).”.

19 **SEC. 1133. TRANSMISSION INFRASTRUCTURE INVESTMENT.**

20 Part II of the Federal Power Act is amended by adding the following:

21 “SUSTAINABLE TRANSMISSION NETWORKS RULEMAKING

22 “SEC. 221. Within six months of enactment of this section, the Commission shall issue a final
23 rule establishing transmission pricing policies applicable to all public utilities and policies for the
24 allocation of costs associated with the expansion, modification or upgrade of existing interstate
25 transmission facilities and for the interconnection of new transmission facilities for utilities and facilities
26 which are not included within a Commission approved RTO. Consistent with section 205 of this Act,
27 such rule shall, to the maximum extent practicable:

28 “(1) promote capital investment in the economically efficient transmission systems;

“(2) encourage the construction of transmission and generation facilities in a manner which provides the lowest overall risk and cost to consumers;

“(3) encourage improved operation of transmission facilities and deployment of transmission technologies designed to increase capacity and efficiency of existing networks;

“(4) ensure that the costs of any transmission expansion or interconnection be allocated in such a way that all users of the affected transmission system bear the appropriate share of costs; and

“(5) ensure that parties who pay for facilities necessary for transmission expansion or interconnection receive appropriate compensation for those facilities.”.

Subtitle D—Amendments to the Public Utility Regulatory Policies Act of 1978

SEC. 1141. NET METERING.

(a) ADOPTION OF STANDARD.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

“(11) NET METERING.—

“(A) Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves.

“(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

“(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standard set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.”.

(b) SPECIAL RULES FOR NET METERING.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is further amended by adding at the end the following:

“(i) NET METERING.—In undertaking the consideration and making the determination under

1 section 111 with respect to the standard concerning net metering established by section 111(d)(13), the
2 term net metering service shall mean a service provided in accordance with the following standards:

3 “(1) An electric utility—

4 “(A) shall charge the owner or operator of an on-site generating facility rates
5 and charges that are identical to those that would be charged other electric consumers
6 of the electric utility in the same rate class; and

7 “(B) shall not charge the owner or operator of an on-site generating facility any
8 additional standby, capacity, interconnection, or other rate or charge.

9 “(2) An electric utility that sells electric energy to the owner or operator of an on-site
10 generating facility shall measure the quantity of electric energy produced by the on-site facility
11 and the quantity of electric energy consumed by the owner or operator of an on-site generating
12 facility during a billing period in accordance with reasonable metering practices.

13 “(3) If the quantity of electric energy sold by the electric utility to an on-site generating
14 facility exceeds the quantity of electric energy supplied by the on-site generating facility to the
15 electric utility during the billing period, the electric utility may bill the owner or operator for the
16 net quantity of electric energy sold, in accordance with reasonable metering practices.

17 “(4) If the quantity of electric energy supplied by the on-site generating facility to the
18 electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site
19 generating facility during the billing period—

20 “(A) the electric utility may bill the owner or operator of the on-site generating
21 facility for the appropriate charges for the billing period in accordance with paragraph
22 (2); and

23 “(B) the owner or operator of the on-site generating facility shall be credited for
24 the excess kilowatt-hours generated during the billing period, with the kilowatt-hour
25 credit appearing on the bill for the following billing period.

26 “(5) An eligible on-site generating facility and net metering system used by an electric
27 consumer shall meet all applicable safety, performance, reliability, and interconnection

standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

“(6) The Commission, after consultation with State regulatory authorities and unregulated electric utilities and after notice and opportunity for comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.

“(7) For purposes of this subsection—

“(A) The term ‘eligible on-site generating facility’ means a facility on the site of a residential electric consumer with a maximum generating capacity of 10 kilowatts or less that is fueled by solar energy, wind energy, or fuel cells; or a facility on the site of a commercial electric consumer with a maximum generating capacity of 500 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system.

“(B) The term ‘renewable energy resource’ means solar, wind, biomass, or geothermal energy.

“(C) The term ‘high efficiency system’ means fuel cells or combined heat and power.

“(D) The term ‘net metering service’ means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.”.

SEC. 1142. SMART METERING.

(a) IN GENERAL.—Section 111(d) of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

“(12) TIME-BASED METERING AND COMMUNICATIONS.—

“(A) Each electric utility shall offer each of its customer classes, and provide

1 individual customers upon customer request, a time-based rate schedule under which
2 the rate charged by the electric utility varies during different time periods and reflects
3 the variance in the costs of generating and purchasing electricity at the wholesale level.
4 The time-based rate schedule shall enable the electric consumer to manage energy use
5 and cost through advanced metering and communications technology.

6 “(B) The types of time-based rate schedules that may be offered under the
7 schedule referred to in subparagraph (A) include, among others—

8 “(i) time-of-use pricing whereby electricity prices are set for a specific
9 time period on an advance or forward basis, typically not changing more often
10 than twice a year. Prices paid for energy consumed during these periods shall
11 be pre-established and known to consumers in advance of such consumption,
12 allowing them to vary their demand and usage in response to such prices and
13 manage their energy costs by shifting usage to a lower cost period or reducing
14 their consumption overall;

15 “(ii) critical peak pricing whereby time-of-use prices are in effect except
16 for certain peak days, when prices may reflect the costs of generating and
17 purchasing electricity at the wholesale level and when consumers may receive
18 additional discounts for reducing peak period energy consumption; and

19 “(iii) real-time pricing whereby electricity prices are set for a specific
20 time period on an advanced or forward basis and may change as often as
21 hourly.

22 “(C) Each electric utility subject to subparagraph (A) shall provide each
23 customer requesting a time-based rate with a time-based meter capable of enabling the
24 utility and customer to offer and receive such rate, respectively.

25 “(D) For purposes of implementing this paragraph, any reference contained in
26 this section to the date of enactment of the Public Utility Regulatory Policies Act of
27 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

“(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive that same time-based metering and communications device and service as a retail electric consumer of the electric utility.

“(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than twelve (12) months after enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).”.

(b) STATE INVESTIGATION OF DEMAND RESPONSE AND TIME-BASED METERING.—Section 115 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding the at the end the following:

“(k) TIME-BASED METERING AND COMMUNICATIONS.—Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.”.

(c) FEDERAL ASSISTANCE ON DEMAND RESPONSE.—Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking “and” at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting “; and”, and by adding the following at the end thereof:

“(5) technologies, techniques and rate-making methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.”.

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2643) is amended by adding the following at the end thereof:

“(d) DEMAND RESPONSE.—The Secretary shall be responsible for—

1 “(1) educating consumers on the availability, advantages and benefits of advanced
2 metering and communications technologies, including the funding of demonstration or pilot
3 projects;

4 “(2) working with States, utilities, other energy providers and advanced metering and
5 communications experts to identify and address barriers to the adoption of demand response
6 programs; and

7 “(3) not later than 180 days after the date of enactment of the *[short title]*, providing
8 the Congress with a report that identifies and quantifies the national benefits of demand
9 response and makes a recommendation on achieving specific levels of such benefits by January
10 1, 2005.”.

11 (e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

12 (1) It is the policy of the United States to encourage States to coordinate, on a regional
13 basis, State energy policies to provide reliable and affordable demand response services to the
14 public.

15 (2) The Secretary of Energy shall provide technical assistance to States and regional
16 organizations formed by two or more States to assist them in—

17 (A) identifying the areas with the greatest demand response potential;

18 (B) identifying and resolving problems in transmission and distribution networks,
19 including through the use of demand response; and

20 (C) developing plans and programs to use demand response to respond to
21 peak demand or emergency needs.

22 (3) Not later than 1 year after the date of enactment of this Act, the Commission shall
23 prepare and publish an annual report, by appropriate region, that assesses demand response
24 resources, including those available from all consumer classes, and which identifies and
25 reviews—

26 (A) saturation and penetration rate of advanced meters and communications
27 technologies, devices and systems;

(B) existing demand response programs and time-based rate programs;

(C) the annual resource contribution of demand resources;

(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes; and

(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party.

(f) **FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE DEVICES.**—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged and the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated.

SEC. 1143. ADOPTION OF ADDITIONAL STANDARDS.

(a) **ADOPTION OF STANDARDS.**—Section 113(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623(b)) is amended by adding at the end the following:

“(6) Each electric utility shall provide distributed generation, combined heat and power, and district heating and cooling systems competitive access to the local distribution grid and competitive pricing of service, and shall use simplified standard contracts for the interconnection of generating facilities that have a power production capacity of 250 kilowatts or less.

“(7) No electric utility may refuse to interconnect a generating facility with the distribution facilities of the electric utility if the owner or operator of the generating facility complies with technical standards adopted by the State regulatory authority and agrees to pay the costs established by such State regulatory authority.

“(8) Each electric utility shall develop a plan to minimize dependence on one fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

“(9) Each electric utility shall develop and implement a ten-year plan to increase the

1 efficiency of its fossil fuel generation.”.

2 (b) TIME FOR ADOPTING STANDARDS.—Section 113 of the Public Utility Regulatory Policies
3 Act of 1978 (16 U.S.C. 2623) is further amended by adding at the end the following:

4 “(d) SPECIAL RULE.—For purposes of implementing paragraphs (6), (7), (8), and (9) of
5 subsection (b), any reference contained in this section to the date of enactment of the Public Utility
6 Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this
7 subsection.”.

8 **SEC. 1144. TECHNICAL ASSISTANCE.**

9 Section 132(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(c)) is
10 amended to read as follows:

11 “(c) TECHNICAL ASSISTANCE FOR CERTAIN RESPONSIBILITIES.—The Secretary may provide
12 such technical assistance as determined appropriate to assist State regulatory authorities and electric
13 utilities in carrying out their responsibilities under section 111(d)(11) and paragraphs (6), (7), (8), and
14 (9) of section 113(b).”.

15 **SEC. 1145. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.**

16 (a) NEW CONTRACTS.—No electric utility shall be required to enter into a new contract or
17 obligation to purchase or to sell electricity or capacity under section 210 of the Public Utility Regulatory
18 Policies Act of 1978 (16 U.S.C. 824a–3).

19 (b) EXISTING RIGHTS AND REMEDIES.—Nothing in this section affects the rights or remedies of
20 any party with respect to the purchase or sale of electricity or capacity from or to a facility determined
21 to be a qualifying small power production facility or a qualifying cogeneration facility under section 210
22 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) under any contract or
23 obligation to purchase or to sell electricity or capacity in effect on the date of enactment of this Act,
24 including the right to recover the costs of purchasing the electricity or capacity.

25 (c) INTERPRETATIONS AND ACTIONS TAKEN.—Nothing in this Act implies congressional
26 ratification of any interpretation of, or any action taken under, section 210 of the Public Utility
27 Regulatory Policies Act of 1978 (16 U.S.C. 824a–3).

28 **SEC. 1146. RECOVERY OF COSTS.**

(a) REGULATION.—To ensure recovery by any electric utility that purchases electricity or capacity from a qualifying facility pursuant to any legally enforceable obligation entered into or imposed under section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) before the date of enactment of this Act of all costs associated with the purchases, the Commission shall promulgate and enforce such regulations as are required to ensure that no utility shall be required directly or indirectly to absorb the costs associated with the purchases.

(b) TREATMENT.—A regulation under subsection (a) shall be treated as a rule enforceable under the Federal Power Act (16 U.S.C. 791a et seq.).

Subtitle E—Market Transparency, Anti-Manipulation And Enforcement

SEC. 1151. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act is amended by adding:

“MARKET TRANSPARENCY RULES

“SEC. 222. (a) Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide the Commission and the public with access to such information as is necessary or appropriate to facilitate price transparency and participation in markets subject to the Commission’s jurisdiction. Such systems shall provide information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public. The Commission shall have authority to obtain such information from any electric and transmitting utility, including any entity described in section 201(f).

“(b) The Commission shall exempt from disclosure information it determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security. This section shall not apply to an entity described in section 212(k)(2)(B) with respect to transactions for the purchase or sale of wholesale electric energy and transmission services within the area described in section 212(k)(2)(A).”.

1 **SEC. 1152. MARKET MANIPULATION.**

2 Part II of the Federal Power Act is amended by the following:

3 “PROHIBITION ON FILING FALSE INFORMATION

4 “SEC. 223. It shall be a violation of this Act for any person or any other entity willfully and
5 knowingly to report any information relating to the price of electricity sold at wholesale, which
6 information the person or any other entity knew to be false at the time of the reporting, to any
7 governmental entity with the intent to manipulate the data being compiled by such governmental entity.

8 “PROHIBITION ON ROUND TRIP TRADING

9 “SEC. 224. (a) It shall be a violation of this Act for any person or any other entity willfully and
10 knowingly to enter into any contract or other arrangement to execute a ‘round-trip trade’ for the
11 purchase or sale of electric energy at wholesale.

12 “(b) For the purposes of this section, the term ‘round trip trade’ means a transaction, or
13 combination of transactions, in which a person or any other entity—

14 “(1) enters into a contract or other arrangement to purchase from, or sell to, any other
15 person or other entity electric energy at wholesale;

16 “(2) simultaneously with entering into the contract or arrangement described in
17 paragraph (1), arranges a financially offsetting trade with such other person or entity for the
18 same such electric energy, at the same location, price, quantity and terms so that, collectively,
19 the purchase and sale transactions in themselves result in no financial gain or loss; and

20 “(3) enters into the contract or arrangement with the intent to deceptively affect
21 reported revenues, trading volumes, or prices.”.

22 **SEC. 1153. ENFORCEMENT.**

23 (a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended
24 by—

25 (1) inserting “electric utility (including entities described in section 201(f) and rural
26 cooperative entities),” after “Any person,”; and

27 (2) inserting “transmitting utility,” after “licensee” each place it appears.

28 (b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is

1 amended by inserting “or transmitting utility” after “any person” in the first sentence.

2 (c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C.
3 8251) is amended by inserting “electric utility,” after “Any person,” in the first sentence.

4 (d) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o) is
5 amended—

6 (1) in subsection (a), by striking “\$5,000” and inserting “\$1,000,000”, and by striking
7 “two years” and inserting “five years”;

8 (2) in subsection (b), by striking “\$500” and inserting “\$25,000”; and

9 (3) by striking subsection (c).

10 (e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o-1) is
11 amended—

12 (1) in subsections (a) and (b), by striking “section 211, 212, 213, or 214” each place it
13 appears and inserting “Part II”; and

14 (2) in subsection (b), by striking “\$10,000” and inserting “\$1,000,000”.

15 (f) GENERAL PENALTIES.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

16 (1) in subsection (a), by striking “\$5,000” and inserting “\$1,000,000”, and by striking
17 “two years” and inserting “five years”; and

18 (2) in subsection (b), by striking “\$500” and inserting “\$50,000”.

19 **SEC. 1154. REFUND EFFECTIVE DATE.**

20 Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended by—

21 (1) striking “the date 60 days after the filing of such complaint nor later than 5 months
22 after the expiration of such 60-day period” in the second sentence and inserting “the date of the
23 filing of such complaint nor later than 5 months after the filing of such complaint”;

24 (2) striking “60 days after” in the third sentence and inserting “of”;

25 (3) striking “expiration of such 60-day period” in the third sentence and inserting
26 “publication date”; and

27 (4) striking the fifth sentence and inserting: “If no final decision is rendered by the
28 conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this

section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision.”.

Subtitle F—Consumer Protections

SEC. 1161. CONSUMER PRIVACY.

The Federal Trade Commission shall issue rules protecting the privacy of electric consumers from the disclosure of consumer information in connection with the sale or delivery of electric energy to a retail electric consumer.

SEC. 1162. UNFAIR TRADE PRACTICES.

(a) **SLAMMING.**—The Federal Trade Commission shall issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if determined by the appropriate State regulatory authority to be necessary to prevent loss of service.

(b) **CRAMMING.**—The Federal Trade Commission shall issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(c) **STATE AUTHORITY.**—If the Federal Trade Commission determines that a State’s regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1163. DEFINITIONS.

For purposes of this subtitle—

(1) “State regulatory authority ” has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) “electric consumer” and “electric utility” have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

Subtitle G—Technical Amendments

SEC. 1171. TECHNICAL AMENDMENTS.

(a) Section 211(c) of the Federal Power Act (16 U.S.C. 824j(c)) is amended by—

(1) striking “(2)”;

(2) striking “(A)” and inserting “(1)”

1 (3) striking “(B)” and inserting “(2)”; and

2 (4) striking “termination of modification” and inserting “termination or modification”.

3 (b) Section 211(d)(1) of the Federal Power Act (16 U.S.C. 824j(d)) is amended by striking
4 “electric utility” the second time it appears and inserting “transmitting utility”.

5 (c) Section 315 of the Federal Power Act (16 U.S.C. 825n) is amended by striking
6 “subsection” and inserting “section”.